

LEGISLATIVE BILL 193

Approved by the Governor March 1, 2001

Introduced by Business and Labor Committee: Connealy, 16, Chairperson;
Dierks, 40; Hartnett, 45; Preister, 5; Vrtiska, 1

AN ACT relating to labor; to amend section 81-401, Reissue Revised Statutes of Nebraska; to adopt the Nebraska Workforce Investment Act; to repeal the Nebraska Job Training Act; to harmonize provisions; to repeal the original section; to outright repeal sections 48-1601 to 48-1615, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 12 of this act shall be known and may be cited as the Nebraska Workforce Investment Act.

Sec. 2. (1) The purpose of the Nebraska Workforce Investment Act is to provide workforce investment activities through statewide and local workforce investment systems that will improve the quality of the workforce and enhance the productivity and competitiveness of Nebraska through its workforce.

(2) The Legislature recognizes the following principles:

(a) Nebraskans must upgrade their skills to succeed in today's workplace;

(b) In business, workforce skills are the key competitive advantage;

(c) Workforce skills will be Nebraska's primary job-creating incentive for business;

(d) Efficiency and accountability mandate the consolidation of program services and the elimination of unwarranted duplication;

(e) Streamlined state and local partnerships must focus on outcomes, not process;

(f) Locally designed, customer-focused, market-driven service delivery which offers a single point of entry for all services is vital; and

(g) Job training services must be developed in concert with the input and needs of existing employers and businesses, and must consider anticipated demand for targeted job opportunities.

In recognition of these principles, the Nebraska Workforce Investment Act will coordinate state and local activities to increase employment, retention, occupational skills, and earnings in the workforce. The act will enhance the productivity and competitiveness of state business and industry and encourage continuous improvement in worker preparation beginning with youth in middle school through adulthood.

(3) Nebraska's workforce development plan must implicate a comprehensive, consumer-driven, employment and career development system that meets the needs of all members of the workforce, including those entering the workforce for the first time, those in employment transition, and those currently employed but seeking to enhance their skills for continued career advancement.

Sec. 3. For purposes of the Nebraska Workforce Investment Act, unless the context otherwise requires:

(1) Chief elected official means the chief elected executive officer of a unit of general local government in a local area, and in a case in which a local area includes more than one unit of general local government, the individuals designated under the local area plan or the agreement described in section 117(c)(1)(B) of the federal Workforce Investment Act, 29 U.S.C. 2832(c)(1)(B);

(2) Commissioner means the Commissioner of Labor;

(3) Core services means services described in section 134(d)(2) of the federal Workforce Investment Act, 29 U.S.C. 2864(d)(2), available to individuals who are adults or dislocated workers through the one-stop delivery system;

(4) Federal Workforce Investment Act means the Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq., as the act existed on the effective date of this act;

(5) Intensive services means services described in section 134(d)(3) of the federal Workforce Investment Act, 29 U.S.C. 2864(d)(3), available to adults and dislocated workers respectively through the one-stop delivery system who are unemployed and are unable to obtain employment through core services and who have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment or who are employed but

who are determined by a one-stop operator to be in need of such intensive services in order to obtain or retain employment that allows for self-sufficiency;

(6) Local area means a local area designated by the Governor and described in the state plan pursuant to section 116 of the federal Workforce Investment Act, 29 U.S.C. 2831;

(7) Local board means a local workforce investment board established pursuant to section 5 of this act;

(8) One-stop career center means a physical location that provides access to all one-stop services and partners, is certified by the local area, and includes an onsite resource area that meets the minimum criteria as established by the local area plan;

(9) One-stop partner means an entity described in section 121(b)(1) of the federal Workforce Investment Act, 29 U.S.C. 2841(b)(1), that is participating with the approval of the local board and chief elected official, in the operation of a one-stop delivery system;

(10) State board means the Nebraska Workforce Investment Board established pursuant to section 8 of this act; and

(11) Youth council means a council established under section 117(h) of the federal Workforce Investment Act, 29 U.S.C. 2832(h).

Sec. 4. (1) At least one comprehensive one-stop career center shall be established in each local area of the state. State agencies providing services at a comprehensive one-stop career center include the Department of Labor, Department of Health and Human Services, Department of Economic Development, State Department of Education, and community colleges in the area where the one-stop career center is located. The following minimum level of programs and activities shall be available at a comprehensive one-stop career center:

(a) Adult, youth, and dislocated workers employment and training programs provided under Title I of the federal Workforce Investment Act;

(b) Programs authorized under the Wagner-Peyser Act, 29 U.S.C. 49 et seq., as the act existed on the effective date of this act;

(c) Adult education and literacy activities authorized under Title II of the federal Workforce Investment Act;

(d) Programs authorized under Title I of the Rehabilitation Act of 1973, 29 U.S.C. 720 et seq., as the act existed on the effective date of this act;

(e) Welfare to work programs authorized under section 403(a)(5) of the Social Security Act, 42 U.S.C. 603(a)(5), as the section existed on the effective date of this act;

(f) Older American community service programs authorized under Title V of the Older Americans Act of 1965, 42 U.S.C. 3056 et seq., as the act existed on the effective date of this act;

(g) Postsecondary education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2301 et seq., as the act existed on the effective date of this act. Preference shall be given to the applications of one-stop career centers which have submitted and obtained approval of a business plan to the local board;

(h) Trade adjustment assistance for workers authorized under Title II of the Trade Act of 1974, 19 U.S.C. 2271 et seq., as the act existed on the effective date of this act;

(i) Job counseling and training and placement services for veterans authorized under Chapter 41 of Title 38 of the United States Code, as such chapter existed on the effective date of this act;

(j) Employment and training activities carried out under the Community Services Block Grant Act, 42 U.S.C. 9901 et seq., as the act existed on the effective date of this act;

(k) Employment and training activities carried out by the federal Department of Housing and Urban Development; and

(l) Unemployment benefit and reemployment services authorized under the Employment Security Law.

(2) In addition to the mandatory programs in subsection (1) of this section, a local board is encouraged to include participation by the Department of Correctional Services, youth programs authorized under section 129 of the federal Workforce Investment Act, 29 U.S.C. 2854, the Nebraska Workers' Compensation Court, public and private postsecondary educational institutions, and secondary education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2301 et seq., as the act existed on the effective date of this act.

(3) A local board may establish one or more affiliate career centers which offer one or more of the program services described in subsection (1) of this section and can provide a direct link to the comprehensive one-stop

career center through technology.

(4) Comprehensive one-stop career centers shall utilize a common intake and common application system for persons applying for services or training offered at the one-stop career center.

Sec. 5. (1) In each local area of the state a local workforce investment board shall be established and certified by the Governor. The local board shall set policy for the portion of the statewide workforce investment system within the local area. The chief elected official in a local area shall appoint the members of the local board for such area in accordance with the criteria established under subsection (2) of this section.

(2) The Governor, in consultation with the state board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas. Such criteria shall require, at a minimum, that the membership of each local board:

(a) Shall include:

(i) Representatives of business in the local area who:

(A) Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) Represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(C) Are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) Representatives of local educational entities, including representatives of local educational agencies, local kindergarten through grade twelve school boards, career preparation education providers, entities providing adult education and literacy activities, and postsecondary educational institutions, including representatives of community colleges, where such entities exist, selected from among individuals to be nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) Representatives of labor organizations, for a local area in which employees are represented by labor organizations, nominated by local labor federations, or for a local area in which no employees are represented by such organizations, nominated by other representatives of employees;

(iv) Representatives of community-based organizations, including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present;

(v) Representatives of economic development agencies, including private sector economic development entities; and

(vi) Representatives of each of the required one-stop career center partners. The required partners are those described in subsection (1) of section 4 of this act; and

(b) May include such other individuals or representatives of entities as the chief elected official in the local area determines appropriate.

(3) Members of the local board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) A majority of the members of the local board shall be representatives described in subdivision (2)(a)(i) of this section. The local board shall elect a chairperson for the local board from among the representatives described in such subdivision.

(5) To transact business at all meetings of the local board, a quorum of members must be present. A quorum of a local workforce investment board shall be a majority of its appointed members.

(6) A local board in partnership with the chief elected official shall develop and submit to the Governor and the state board a proposed comprehensive five-year local plan in accordance with section 118 of the federal Workforce Investment Act, 29 U.S.C. 2833.

(7) The local plan is subject to approval by the Governor.

Sec. 6. (1) There shall be established, as a subcommittee within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2) The membership of each youth council shall include:

(a) Members of the local board with special interest or expertise in youth policy;

(b) Representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(c) Representatives of local public housing authorities;

(d) Parents of youth, including, but not limited to, parents of eligible youth seeking assistance under the Nebraska Workforce Investment Act;

(e) Individuals, including former participants, and representatives of organizations, that have experience relating to youth activities;

(f) Representatives of the Job Corps, as appropriate; and

(g) Representatives of local kindergarten through grade twelve school boards, community colleges, and such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) Members of the youth council who are not members of the local board shall be voting members of the youth council and nonvoting members of the local board.

(4) The duties of the youth council include:

(a) Developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(b) Subject to the approval of the local board and consistent with section 123 of the federal Workforce Investment Act, 29 U.S.C. 2843:

(i) Recommending eligible providers of youth programs authorized under section 129 of the federal Workforce Investment Act, 29 U.S.C. 2854, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth programs; and

(ii) Conducting oversight with respect to the eligible providers of youth activities in the local area;

(c) Coordinating youth activities authorized under section 129 of the federal Workforce Investment Act, 29 U.S.C. 2854, in the local area;

(d) The coordination of career preparation programs; and

(e) Other duties determined to be appropriate by the chairperson of the local board.

Sec. 7. (1) As a part of the core services required by section 134(d)(2)(E)(i) of the federal Workforce Investment Act, 29 U.S.C. 2864(d)(2)(E)(i), one-stop career centers shall provide current listings of job opportunities.

(2) Funds allocated to a local area for adults and dislocated workers pursuant to the federal Workforce Investment Act shall be used to provide intensive services to adults and dislocated workers, respectively:

(a) Who are unemployed and are unable to obtain employment through core services provided in section 134(d)(2) of the federal Workforce Investment Act, 29 U.S.C. 2864 (d)(2), and have been determined by a one-stop career center partner to be in need of more intensive services in order to obtain employment; or

(b) Who are employed but who are determined by a one-stop career center operator to be in need of intensive services in order to obtain or retain employment that allows for self-sufficiency.

(3) Intensive services shall be provided through the one-stop delivery system:

(a) Directly through one-stop career center operators identified pursuant to section 121(d) of the federal Workforce Investment Act, 29 U.S.C. 2841(d); or

(b) Through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

(4) Intensive services may include the following:

(a) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:

(i) Diagnostic testing and use of other assessment tools; and

(ii) In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

(b) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals;

(c) Group counseling;

(d) Individual counseling and career planning;

(e) Case management for participants seeking training services; and

(f) Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for employment or training.

(5) Except as provided in section 134(d)(4)(G)(ii) of the federal Workforce Investment Act, 29 U.S.C. 2864(d)(4)(G)(ii), training services provided in accordance with section 134 of the federal act, 29 U.S.C. 2864, shall be provided through the use of individual training accounts and shall be provided to eligible individuals through the one-stop delivery system.

Sec. 8. (1) The Nebraska Workforce Investment Board is established to assist in the development of a state plan to carry out the functions

described in the federal Workforce Investment Act.

(2) The state board shall include:

(a) The Governor;

(b) Two members of the Legislature selected by and serving at the pleasure of the Speaker of the Legislature; and

(c) Representatives appointed by the Governor who serve at the pleasure of the Governor who are:

(i) Representatives of business in the state who:

(A) Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local boards described in subdivision (2)(a)(i) of section 5 of this act;

(B) Represent businesses with employment opportunities that reflect the employment opportunities of the state; and

(C) Are appointed from among individuals nominated by state business organizations and business trade associations;

(ii) Chief elected officials representing both cities and counties;

(iii) Representatives of labor organizations who have been nominated by state labor federations;

(iv) Representatives of individuals and organizations that have experience with respect to youth programs authorized under section 129 of the federal Workforce Investment Act, 29 U.S.C. 2854;

(v) Representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the state;

(vi)(A) The officials from each of the lead state agencies with responsibility for the programs and activities that are described in section 4 of this act and carried out by one-stop partners; and

(B) In any case in which no lead state agency official has responsibility for such a program, service, or activity, a representative in the state with expertise relating to such program, service, or activity; and

(vii) Such other representatives and state agency officials as the Governor may designate.

(3) Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse regions of the state, including urban, rural, and suburban areas.

(4) A majority of the members of the state board shall be private sector representatives described in subdivision (2)(c)(i) of this section. The Governor shall select a chairperson and a vice-chairperson for the state board from among the representatives described in such subdivision.

(5) To transact business at all meetings of the state board, a quorum of members must be present. A quorum of the Nebraska Workforce Investment Board shall be a majority of its appointed members.

Sec. 9. The state board shall advise the Governor in:

(1) The development of the state plan;

(2) The development and continuous improvement of a statewide system of services that are funded under the federal Workforce Investment Act carried out through a one-stop delivery system described in section 134(c) of the federal act, 29 U.S.C. 2864(c), that receives funds under the statewide workforce investment system, including:

(a) The development of linkages in order to assure coordination and nonduplication among the programs and activities described in section 4 of this act; and

(b) The review of local plans;

(3) Commenting at least once annually on the measures taken pursuant to section 113(b)(14) of the federal Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2323(b), as such section existed on the effective date of this act. Such comments shall be included in the annual report provided for in subsection (2) of section 10 of this act;

(4) The designation of local areas as required in section 116 of the federal Workforce Investment Act, 29 U.S.C. 2831;

(5) The development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under sections 128(b)(3)(B) and 133(b)(3)(B) of the federal Workforce Investment Act, 29 U.S.C. 2853(b)(3)(B) and 29 U.S.C. 2863(b)(3)(B);

(6) The development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state

as required under section 136(b) of the federal Workforce Investment Act, 29 U.S.C. 2871(b);

(7) The preparation of the annual report to the Secretary of Labor described in section 136(d) of the federal Workforce Investment Act, 29 U.S.C. 2871(d);

(8) The development of the statewide employment statistics system described in section 15(e) of the federal Wagner-Peyser Act, 29 U.S.C. 49 et seq., as the section existed on the effective date of this act; and

(9) The development of an application for an incentive grant under section 503 of the federal Workforce Investment Act, 20 U.S.C. 9273.

Sec. 10. (1) The state board shall submit to the Governor recommendations for changes in the state plan submitted to the Secretary of Labor outlining the five-year strategy for the statewide workforce investment system for the State of Nebraska in accordance with section 112 of the federal Workforce Investment Act, 29 U.S.C. 2822.

(2) The state board shall submit to the chairperson and members of the Business and Labor Committee of the Legislature, the chairperson of each of the standing committees of the Legislature, the Speaker of the Legislature, the Clerk of the Legislature, the Department of Health and Human Services, the Department of Economic Development, the State Department of Education, and the Department of Labor a copy of any recommendations for modification of the state plan and the annual report of the state board. The annual report of the state board shall include information on the number of individuals served, the state's average cost per individual receiving training or placement services, short-term and long-term performance measures of job placements, and training and skill levels of training participants. In order to promote better accountability, such reports shall contain measures of accomplishment of the performance measures set forth at 20 C.F.R. 666.100, as the regulation existed on the effective date of this act, and shall use consistent units of measure in order to provide comparability both within a single annual report and between different annual reports.

Sec. 11. The commissioner is designated as the Governor's Workforce Investment Act liaison and may:

(1) Monitor and review for the Governor organizations and agencies engaged in and facilities used for the administration or delivery of job training programs under Title I of the federal Workforce Investment Act; and

(2) Provide staff support and adopt such methods of administration as are necessary for the proper and efficient operation of the duties and functions provided in the federal Workforce Investment Act.

Sec. 12. (1) Except as otherwise provided in this section, or the federal Workforce Investment Act and the regulations adopted pursuant thereto, appeals brought pursuant to sections 116(a), 122(g), and 136(h)(2)(B) of the federal Workforce Investment Act, 29 U.S.C. 2831(a), 29 U.S.C. 2842(g), and 29 U.S.C. 2871(h)(2)(B), shall be conducted in accordance with the Administrative Procedure Act. The commissioner may conduct hearings on behalf of the Governor and make findings and recommendations to the Governor on the merits of the appeal.

(2) In the case of an appeal by an entity which was not granted designation as a local area, the state board shall review the findings and recommendations of the commissioner and advise the Governor as to whether the appeal should be granted or denied.

Sec. 13. Section 81-401, Reissue Revised Statutes of Nebraska, is amended to read:

81-401. The Governor, through the agency of the Department of Labor created by section 81-101, shall have power:

(1) To foster, promote, and develop the welfare of wage earners;

(2) To improve working conditions;

(3) To advance opportunities for profitable employment;

(4) To collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in its relation to commercial, industrial, social, economic, and educational conditions and to the permanent prosperity of the manufacturing and productive industries;

(5) To acquire and distribute useful information on subjects connected with labor in the most general and comprehensive sense of the word;

(6) To acquire and distribute useful information concerning the means of promoting the material, social, intellectual, and moral prosperity of laboring men and women;

(7) To acquire and distribute information as to the conditions of employment and such other facts as may be deemed of value to the industrial interests of the state;

(8) To acquire and distribute information in relation to the prevention of accidents, occupational diseases, and other related subjects;

(9) To acquire and distribute useful information regarding the role of the part-time labor force and the manner in which such labor force affects the economy and citizens of the state; and

(10) To administer and enforce all of the provisions of the Boiler Inspection Act, the Employment Security Law, the Farm Labor Contractors Act, the Nebraska Amusement Ride Act, the ~~Nebraska Job Training Act~~ Nebraska Workforce Investment Act, and the Wage and Hour Act and Chapter 48, articles 2, 3, 4, and 5, and for that purpose there is imposed upon the Commissioner of Labor the duty of executing all of the provisions of such acts, law, and articles.

Sec. 14. Original section 81-401, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 15. The following sections are outright repealed: Sections 48-1601 to 48-1615, Reissue Revised Statutes of Nebraska.

Sec. 16. Since an emergency exists, this act takes effect when passed and approved according to law.